

CHARTER SCHOOL LAW STRUCK DOWN RULING MEANS NOAH WEBSTER DOESN'T QUALIFY FOR AID

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Body

Noah Webster Academy, a controversial home-schooling network, has lost another round in its effort to be recognized as a public charter school.

The Michigan Court of Appeals ruled 2-1 on Monday that the state's original 1993 charter school law is unconstitutional and schools approved under it should not receive public funding because they aren't really public schools.

Noah Webster is the only school directly affected by the decision because it is the only one approved under the 1993 law. The 44 charter schools operating today all were authorized under a revised charter law and will continue to receive state funding.

Still, Lansing lawyer Dave Kallman, the founder of Noah Webster, said the ruling is important to all charter schools because it prevents reinstatement of the original, less restrictive law.

"Now, charter schools are more regulated than the public schools. In that sense, it's important to all charter schools," Kallman said Monday. He said he plans to file an appeal with the state Supreme Court.

"The new law really was designed to meet the objections to the first law," said Robert Mills, director of the charter school office at Central Michigan University. Mills' office has been the most active in setting up charter schools, an independent type of public school designed to encourage experimentation in teaching and learning methods.

The governor's office prefers the original charter law because it has fewer restrictions. John Truscott, a spokesman for Gov. John Engler, said the state also might consider appealing Monday's ruling because a successful appeal would revive the original law.

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Howard Simon, executive director of the Michigan chapter of the ACLU, said he expects more litigation on the current law.

"This can't possibly be the last ruling on this subject. There is so little known about what goes on in the charter schools. There is a need for closer scrutiny by the courts to see if this is simply a clever end-run about Michigan's constitutional ban on aid to private and parochial schools," Simon said.

The appeals court panel said the original charter school law did not place the schools under the exclusive control of the state and so they did not meet the standard to be considered public schools.

But in a blistering 13-page dissent, Judge Peter O'Connell took the other two judges to task for behaving more like a legislative than a judicial body.

"The wearing of judicial robes is not a license to usurp governmental powers confided to other branches, to take on the role of philosopher kings or to act as counterweights to swing the balance of the political process," O'Connell wrote.

The other judges on the panel were Marilyn Kelly and Donald Teeple, a Sanilac County circuit judge temporarily assigned to the court.

The lawsuit was filed in 1994 by the Council of Organizations and Others For Education About Parochialism, a group created decades ago to help enact the state's constitutional ban against spending public money on private schools. The group continues to monitor charter school laws.

The council's argument was that charter schools were a subterfuge for diverting public money to private schools.

In 1994, Ingham Circuit Court Judge William Collette found the original law unconstitutional and said schools organized under it weren't eligible for state aid.

A few months later, the Legislature amended the law to address issues raised by Collette.

The revised law gave the State Board of Education oversight over charter schools, limited the number of charter schools that could be created, banned multisite charter schools such as Noah Webster and prohibited fourth-class school districts from granting charters. Fourth-class districts generally are among the smallest in the state. Noah Webster was chartered by a fourth-class district in Ionia County.

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